

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

18-cv-048645-EMC

IN RE TESLA SECURITIES LITIGATION

TRIAL SHEET, EXHIBIT and WITNESS LIST

JUDGE:		PLAINTIFF'S ATTORNEY:		DEFENSE ATTORNEYS:	
Edward M. Chen		Nicholas Porritt, Elizabeth Tripodi, Alexander Krot, Joseph Levi, Adam Apton		Alexander Spiro, Andrew Rossman, Phillip Jobe, Ellyde Thompson, Jesse Bernstein, Michael Lifrak, Anthony Alden, Matthew Alexander Bergjans, William Price	
TRIAL DATE:		REPORTERS:		CLERK:	
January 24, 2023		Belle Ball		Vicky Ayala	
PLF NO.	DEF NO	TIME OFFERED	ID	ADM	DESCRIPTION
		8:15 a.m.			Court in session. Housekeeping matters discussed outside the presence of the jury. The Court indicated that it would issue its rulings regarding the slate of witnesses and evidence scheduled for day three shortly. Defense counsel asked the Court to require Plaintiff to prioritize in-person witnesses over witnesses testifying by deposition. Counsel for Plaintiff responded that he believed that the live witnesses would still testify according to their designated dates. The Court noted that it generally deferred to the parties' order of presentation, unless there was a compelling reason (such as a particular witness only being available on a certain date) to deviate. The Court explained that if there was something compelling that required a particular witness to testify on a particular date, it would hear that issue on an individual basis, but that the Court would not shift around witnesses just because a witness had been waiting to testify. Next, counsel for Defendants lodged an objection to the Court's rulings regarding the deposition designations for Mr. Brinkman. The Court explained that while the effect on the listener rationale does not apply to documents that were published by opinion makers or others that may have affected the market after the close of the Class Period, that does not preclude evidence that sheds light on reactions or/ perceptions by the public and the class during the Class Period which is separately admissible.

					Counsel for Plaintiff notified the Court that the parties had met and conferred and had agreed on the relevant testimony for Joseph Fath based on the Court's previous rulings (for which Defendants maintained all relevant objections). The parties agreed to submit their revised evidentiary objections shortly. As to Exhibit 825, to which the Court has sustained Plaintiff's objection on the basis of completeness, the Court explained that it was overruling Plaintiff's hearsay objection. The Court informed the parties that Plaintiff had used five hours and fifty-nine minutes of trial time and Defendants had used six hours and forty-three minutes. The Court warned the parties that they had each used ten additional minutes beyond the allocated fifteen-minute period for evidentiary objections, which the Court had divided evenly between the parties. (The Court had earlier indicated it would devote 15 minutes each morning to evidentiary objections and that any court time beyond that would be charge to the parties.) Finally, the Court noted that the Court was not involved in arrangements for where Mr. Musk would be kept prior to testifying. The Court's only involvement was to ensure that Mr. Musk would be supervised by court security personnel to ensure separation from jurors and court staff.
		8:36 a.m.			Jury present.
		8:36 a.m.			Witness, Elon Musk , returns to the stand from 9/23/2023. Witness previously sworn for testimony. Cross-examination by Alexander Spiro resumes.
	1001		X	X	Email from Elon Musk to Ron Baron dated 8/7/2018 re Tesla +\$11.
	243		X	X	Email from Elon Musk to Dan Dees dated 8/8/18 re Really Exciting Day for Tesla.
	256		X	X	Email from Dan Dees dated 8/11/18 re Good to See You Yesterday.
					Plaintiff objected to Exhibit 825; Judge overruled. The exhibit was previously sustained due to lack of completeness.
	825		X	X	Email from Elon Musk to Todd Maron dated 8/12/2018 re Privileged.
	332		X	X	Bloomberg Article dated 8/12/2018 re Saudi Fund in Talks to Invest in Tesla Buyout Deal.
	179		X	X	Requested exhibit be admitted but was not published. Published by Mr. Porritt later.
	361		X	X	Elon Musk Tweet dated 8/13/2018 re Update on Taking Tesla Private.
		9:56 a.m.			Cross-examination of witness by Alexander Spiro concludes.
		9:57 a.m.			Jury admonished and excused for break.
		9:58 a.m.			Court in recess.
		10:20 a.m.			Court reconvened.
		10:25 a.m.			Jury present.
		10:26 a.m.			Re-direct examination of witness by Nicholas Porritt.

		11:15 a.m.			Court overruled objections from defense counsel regarding presenting witness with his responses to form interrogatories, set one.
		11:34 a.m.			Re-cross examination of witness by Alexander Spiro.
		11:49 a.m.			Re-direct examination of witness by Nicholas Porritt.
		11:50 a.m.			Jury excused for break.
		11:51 a.m.			Witness excused.
		11:53 a.m.			Court in recess.
		12:20 p.m.			Court reconvened. Housekeeping matters discussed outside the presence of the jury. Plaintiff moves to admit the following exhibits: 8, 10, 11, 12, 13, 14, 15, 17, 18, 21, 22, 23, 24, 25, 27, 53 and 171. Some may already be in evidence. No objections. Exhibits admitted.
		12:27 p.m.			Jury present.
		12:27 p.m.			Witness, Martin Viecha , approaches the witness stand and sworn for testimony. Direct examination by Elizabeth Tripodi
143			X	X	Email from Martin Viecha to Deepak Ahuja dated 8/7/2018 re Share Ownership.
146			X	X	Email from Martin Viecha to Michael Itay dated 8/7/2018 re TSLA Conference Call Details.
150			X	X	Email from Aaron Chew to Bradley Erickson dated 8/7/18 re 1 Question.
58			X	X	Email from Owuraka Koney to Martin Viecha dated 8/7/18 re Call Me Back.
151			X	X	Email from Martin Viecha to Toni Sacconaghi dated 8/7/2018 re Either of You Available to Speak?
147			X	X	Email from Deepak Ahuja to Martin Viecha dated 8/7/18 re Why?
155			X	X	Email from Aaron Chew to Martin Viecha dated 8/8/18 re Investor Feedback.
161			X	X	Email from Deepak Ahuja to Martin Viecha dated 8/18/2018 re Feedback from Investors
160			X	X	Email from Martin Viecha to James Sperling dated 8/17/2018 re Martin Do You Have 5 Mins to Connect.
		1:22 p.m.			Cross-examination of witness by Michael Lifrak.
	145		X	X	Email from Erik Hogner to Martin Viecha dated 8/7/2018 re Takeout.
	171		X	X	The New York Times Article dated 8/23/2021 re Elon Musk Details "Excruciating" Personal Toll of Tesla Turmoil.
		1:57 p.m.			Re-direct examination of witness by Elizabeth Tripodi
		2:02 p.m.			Witness excused.
		2:03 p.m.			Jury admonished and excused. Housekeeping matters discussed outside the presence of the Jury. The Court informed the parties that it would ask the Jury whether they were willing to stay later on Friday. Counsel for Defendants sought to have Antonio Gracias testify tomorrow because he was scheduled to fly out on Thursday. The parties agreed to meet and confer regarding witness scheduling later that afternoon.
		2:09 p.m.			Court adjourned.